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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**
18

19 DAVID M. CATHCART, JAMES H.
WHITEHEAD, ROBERT W. DECKER, DALE
20 BALDISSERI, individually, and on behalf of all
others similarly situated,

21 Plaintiff,

22 v.

23 SARA LEE CORPORATION, SARA LEE
24 BAKERY GROUP, EARTHGRAINS BAKING
COMPANIES, INC. (formerly sued as DOE 1)
25 and DOES 2 through 20,

26 Defendants.
27
28

Case No. CV 09-5748 MMC

**STIPULATION FOR LEAVE TO
MODIFY THE SCHEDULING ORDER
TO EXTEND MOTION, DISCOVERY,
AND MEDIATION DATES**

~~PROPOSED~~ **ORDER APPROVING**
STIPULATION IN PART
The Honorable Maxine M. Chesney

Complaint filed: December 8, 2009

1 The parties stipulate as set forth in the numbered paragraphs below, based on the
 2 following facts:

3 The Scheduling Order (Dkt. No. 33) set original deadlines in this matter. The discovery
 4 and motion deadlines have previously been continued by stipulated order (see Docket Nos. 35,
 5 44, 52, and 56). The deadline to complete mediation has also been continued by stipulated order
 6 (see Docket No. 54). The current deadlines are as follows:

- 7 A. Deadline for parties to complete mediation: June 30, 2011;
- 8 B. Close of discovery on Labor Code § 514 and Motor Carrier Act exemptions: June 1,
 9 2011;
- 10 C. Deadline for filing of Defendants' motion(s) for summary judgment on Labor Code §
 11 514 and Motor Carrier Act exemptions: June 17, 2011;
- 12 D. Deadline for filing Plaintiffs' opposition to above motion(s) and cross-motion: July 8,
 13 2011;
- 14 E. Deadline for reply on Defendants' motion(s) and opposition to cross-motion: July 15,
 15 2011;
- 16 F. Hearing on above motion(s): August 5, 2011, 9:00 a.m.;
- 17 G. Deadline for Plaintiffs to file motion for class certification: February 3, 2012;
- 18 H. Deadline for Defendants to file opposition to motion for class certification: March 23,
 19 2011;
- 20 I. Deadline for Plaintiffs to file reply on motion for class certification: May 11, 2012;
- 21 J. Hearing on motion for class certification: June 1, 2012, 9:00 a.m.
- 22 K. Case Management Conference: July 13, 2012.

23 The parties have continued to pursue discovery, including meeting and conferring on
 24 additional document production by Defendants and noticing the depositions of the named
 25 Plaintiffs and of Defendants under Federal Rule of Civil Procedure 30(b)(6).

26 Two weeks ago, Plaintiffs' counsel was required to take over as lead counsel in a class
 27 action jury trial to begin Monday, May 2, 2011, in Superior Court in Santa Clara County,
 28 because the former lead counsel, his partner, was in trial that would interfere with preparation of

1 the Santa Clara County trial, *Avidor v Sutter's Place*. In light of counsel's trial schedule, the
 2 parties agree to an additional, short extension of discovery and motion deadlines. Further, the
 3 parties believe it would be most efficient to conduct mediation in this case following a ruling on
 4 the initial motion(s) for summary judgment, and therefore request a further continuance of the
 5 mediation completion deadline accordingly.

6 The parties presently believe extension of these deadlines and hearing dates as listed
 7 below is necessary and appropriate and will not prejudice either party.

8 WHEREFORE, THE PARTIES STIPULATE and request that the Court order that the
 9 Scheduling Order (Docket Non. 33) be modified to reflect the deadlines listed below, or to set
 10 forth dates chosen by the Court:

- 11 1. Close of discovery on Labor Code § 514 and Motor Carrier Act exemptions: July 8,
 12 2011;
- 13 2. Deadline for filing of Defendants' motion(s) for summary judgment on Labor Code §
 14 514 and Motor Carrier Act exemptions: July 22, 2011;
- 15 3. Deadline for filing Plaintiffs' opposition to above motion(s) and cross-motion:
 16 August 12, 2011;
- 17 4. Deadline for reply on Defendants' motion(s) and opposition to cross-motion: August
 18 19, 2011;
- 19 5. Hearing on above motion(s): September 9, 2011, 9:00 a.m.;
- 20 6. Deadline for parties to complete mediation: October 14, 2011;
- 21 7. Deadline for Plaintiffs to file motion for class certification: March 2, 2012;
- 22 8. Deadline for Defendants to file opposition to motion for class certification: April 20,
 23 2012;
- 24 9. Deadline for Plaintiffs to file reply on motion for class certification: June 8, 2012;
- 25 10. Hearing on motion for class certification: June 29, 2012, 9:00 a.m.
- 26 11. Case Management Conference: August 10, 2012.

27 SO STIPULATED.

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1 In compliance with General Order No. 45 (X), as filing party, Defendants attest that all
2 signatories below concur in the filing of this document.

3 DATED: May 3, 2011

MAYER BROWN LLP
JOHN NADOLENCO
JEROME JAUFFRET
KRISTEN ROWSE

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7 By: /s/ John Nadolenco
John Nadolenco
Attorneys for Defendants
8 SARA LEE CORPORATION, SARA LEE
9 BAKERY GROUP and EARTHGRAINS
BAKING COMPANIES, INC.

10
11 DATED: April 29, 2011


SPIRO MOSS LLP

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13 By: /s/ Ira Spiro
Ira Spiro
14 Attorneys for Plaintiffs

15 **~~PROPOSED~~ ORDER**

16 SO ORDERED as stated in paragraphs 1 through 11 above, with the exception that the deadline
17 for the parties to complete mediation is continued from June 30, 2011 to August 5, 2011.

18 DATED: May 13, 2011


MAXINE M. CHESNEY
United States District Judge